

State of California
BOARD OF EQUALIZATION
TRANSACTIONS (SALES) AND USE TAX REGULATIONS

Regulation 1826. CONSTRUCTION CONTRACTORS.

References: Sections 6006-6010, inclusive, 6012.6, 6015, 6384, 7261 and 7262, Revenue and Taxation Code.

(a) IN GENERAL. All of the provisions of the state Sales and Use Tax Law and regulations adopted thereunder relating to construction contractors, including subcontractors, (other than those relating to the rate of tax) are applicable to state-administered transactions (sales) and use taxes.

(b) JOBSITE IS PLACE OF BUSINESS.

(1) The jobsite is regarded as a place of business of a contractor and is the place of sale of "fixtures" furnished and installed by a contractor. The place of use of "materials" is the jobsite. Accordingly, if the jobsite is in a district (or districts) having state-administered transactions (sales) and use taxes, the transactions (sales) tax applies to the sale of the fixtures, and the use tax applies to the use of the materials. If the jobsite is not in a district with a state-administered tax, state-administered transactions (sales) tax will not apply to the sale of the fixtures even though the contractor's principal place of business is in a district with such a tax.

(2) The contractor is entitled to a credit against use tax liability for transactions tax reimbursement paid to the retailer of the materials in a district, under the conditions specified in paragraph (b) (1) (E) of Regulation 1823 (18 CCR 1823), Application of Transactions (Sales) Tax and Use Tax. If fixtures are purchased by a contractor tax paid in a district having state-administered transactions (sales) and use taxes, the contractor, upon installing the fixtures in a county without such a tax, is entitled to a credit for the tax of the district of purchase. If the contractor installs the fixtures in a district (or districts) imposing transactions and use taxes at a rate (or combined rate) greater than the district in which the contractor purchased the fixtures tax paid, the contractor is also entitled to a credit for the tax of the district of purchase, but is liable for the transactions tax (or taxes) of the district (or districts) where the fixtures are installed.

(3) The place of sale or purchase of a factory-built school building (relocatable classroom) as defined in paragraph (c) (4) (B) of Regulation 1521 (18 CCR 1521), Construction Contractors, is the place of business of the retailer of the factory-built school building regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

The district use tax of the district (or districts) where the building is installed or placed will apply, if the rate of tax (or combined rate) is greater than the rate of tax in the district of sale, or if the place of sale is not in a district. See paragraph (b) of Regulation 1823 (18 CCR 1823).

(c) UNITED STATES CONTRACTORS. United States contractors are consumers of both materials and fixtures, and the place of use of both is the jobsite. Accordingly, if the jobsite is in a district having state-administered transactions (sales) and use taxes, the use tax applies to the use of the materials and fixtures. The contractor is entitled to a credit against use tax liability for transactions tax reimbursement paid to the retailer of the materials or fixtures in a district, under the conditions specified in paragraph (b) (1) (E) of Regulation 1823 (18 CCR 1823).

History: Adopted January 6, 1970, effective February 25, 1970.

Amended December 12, 1973, effective January 18, 1974.

Adopted June 5, 1991, effective August 16, 1991. Amended paragraph (a) to clarify that provisions of the regulation apply to subcontractors as well as prime contractors. Amended paragraph (b) to explain place of sale. Amended paragraphs (b) (c) with regard to tax credits when property is used by a contractor in two or more districts with overlapping boundaries.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.